

**IN THE UNITED STATES DISTRICT COURT
FOR THE WESTERN DISTRICT OF NORTH CAROLINA
CHARLOTTE DIVISION**

HONEYWELL INTERNATIONAL INC.,)	
HAND HELD PRODUCTS, INC., and)	
METROLOGIC INSTRUMENTS, INC.,)	
)	
Plaintiffs,)	
)	
v.)	Case No. 3:21-cv-00506
)	
OPTO ELECTRONICS CO., LTD.,)	JURY TRIAL DEMANDED
)	
Defendant.)	

**PROTECTIVE NOTICE OF CROSS-APPEAL OF
DEFENDANT OPTO ELECTRONICS CO., LTD.**

Notice is hereby given that Defendant Opto Electronics Co., Ltd. (“OPTO”) appeals to the United States Court of Appeals for the Federal Circuit from the Judgment entered in this action on July 20, 2023 (Dkt. 353), as amended July 26, 2023 (Dkt. 358); the Order entered in this action on September 27, 2023 (Dkt. 394) denying OPTO’s Motion for Judgment as a Matter of Law; and all orders, opinions, and rulings that merge into the Judgment, including but not limited to the Order entered in this action on April 20, 2023 (Dkt. 195) granting partial summary judgment to Plaintiffs and denying summary judgment to OPTO.

Like Plaintiffs, OPTO has filed a Notice of Appeal to the Fourth Circuit (Dkt. 398). But Plaintiffs filed a Notice of Appeal to the Federal Circuit on October 27, 2023 (Dkt. 402). Plaintiffs then notified OPTO that they intend to move to transfer the Fourth Circuit appeals (Nos. 23-1850 & 23-2038) to the Federal Circuit. OPTO intends to oppose that motion to

transfer because those appeals are not within the Federal Circuit's jurisdiction under 28 U.S.C. § 1295(a)(1). And OPTO intends to move to transfer the Federal Circuit appeals (including No. 24-1109) to the Fourth Circuit for the same reason. OPTO nevertheless files this Protective Notice of Cross-Appeal in the event that appellate jurisdiction is determined to lie with the Federal Circuit. This Protective Notice of Cross-Appeal to the Federal Circuit is timely filed within fourteen days after Plaintiffs' October 27 Notice of Appeal. Fed. R. App. P. 4(a)(3).

Dated: November 7, 2023

Respectfully submitted,

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Attorneys for Defendant Opto Electronics Co., LTD.

CERTIFICATE OF SERVICE

I hereby certify that on this 7th day of November, 2023, the foregoing was served upon all counsel of record via the Court's CM/ECF System.

/s/ Robert A. Muckenfuss
Robert A. Muckenfuss